IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 5513 of 2005

Between:

A. Eshwaraiah, S/o. Laxmipathi,
Head Constable (H.C.No.2281),

R/o. Aliabad, Falaknama Post,
Hyderabad.

..... PETITIONER

AND

1 The Government of A.P.,

rep. by its Prl. Secretary, Home (Police), Dept.,
Secretariat, Hyderabad.
2 The Director General and Inspector General of Police,

Saifabad, Hyderabad.
3 The Commissioner of Police, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or a direction, more particularly one in the nature of writ of certiorari, calling for the records relating to the orders of the Hon'ble A.P. Admn. Tribunal, Hyderabad, passed in O.A.No,.6955/1999, dt. 26.4.2004 and set aside the same and issue a consequential direction directing the respondents to grant all the

benefits of promotion and seniority to the petitioner with effect from the date when the juniors to the petitioner were granted in terms of G.O.Ms.No.219, dt. 14.7.1995 and pass such other order or orders.

Counsel for the Petitioner: MR.G.NAGARAJU

Counsel for the Respondents: GP FOR SERVICES I

The Court made the following :

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ORDER: (Per GB,J)

This writ petition is filed assailing the order dated 26-04-2004 passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.6965 of 1999.

2. The petitioner is applicant before the Tribunal. He filed O.A.No.6965 of 1999 challenging the order passed by the Government vide Memo No.35482/Police.C/A2/98-1, dated 14-10-1998.

3. The case of the petitioner is that on 21-12-1964 he was appointed as Police-Constable and was promoted as Head-Constable on out of seniority basis by order dated 27-03-1979. Thereafter, he underwent two and half months refresher course held at Police Recruits School, Amberpet, and passed the same vide order dated 08-04-1986. He was placed on probation and on the basis of seniority, he was promoted as Sub-Inspector in the pay scale of Rs.1280-2440 vide proceedings dated 23-03-1989. It is also submitted that similarly situated persons filed R.P.No.2932 of 1987 seeking regularization in the category of Head Constables and the Tribunal by order dated 03-08-1989 held that when persons are allowed to be continued as Head Constables for long years, without conducting departmental tests, the Rules are deemed to have been relaxed in making their appointments. Accordingly, disposed of the said R.P. directing the authorities to consider their cases without reference to the passing of departmental test. Pursuant to the said order, the Government issued G.O.Ms.No.219, dated 14-07-1995, regularizing their services from the date when they were acting as Head-Constables out of seniority basis. Since the petitioner is also situated on the same lines, he made a representation before the authorities and the same was rejected, but the Tribunal by order dated 20-01-1998 disposed of O.A.No.7978 of 1998 directing the Government to consider the matter for the second time, keeping in view the earlier orders in respect of similarly situated persons. When the Government rejected the case of the petitioner, he filed O.A.No.6965 of 1999 before the Tribunal. The said O.A. was dismissed by the Tribunal on the ground that the petitioner stands on a different footing. Inasmuch as the other persons are concerned, they did not complete the

training, whereas, the petitioner has completed the training. Assailing the order of the Tribunal dated 26-04-2004, the present writ petition has been filed.

4. Heard the learned counsel for the petitioner and the learned Government Pleader.

5. The reasoning assigned by the Tribunal cannot be sustained. Inasmuch as the case of the petitioner is concerned, he stands on a better footing for the reason that the requirement for regularization in the post of Head-Constable is that he should have passed the departmental tests. In the earlier case, the candidates, who did not pass the departmental tests, were regularised, but, whereas, the petitioner, who passed the departmental test, is denied.

6. Under those circumstances, we find that the Government has not considered the matter properly with reference to the order passed by the Tribunal in O.A.No.7978 of 1997 and also G.O.Ms.No.219, dated 14-07-1995. Under those circumstances, we are inclined to set aside the matter directing the Government to re-consider the matter afresh and pass orders keeping in view the similarly situated cases covered in G.O.Ms.No.219, dated 14-07-1995. This exercise shall be done within a period of two months from the date of receipt of a copy of this order.

7. The writ petition is accordingly allowed. No costs.

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G.BIKSHAPATHY, J

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P.S.NARAYANA, J

Date: 06-04-2005

Prv

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Wednesday the sixth of April, Two thousand and five.

To

1 The Government of A.P.,

rep. by its Prl. Secretary, Home (Police), Dept.,
Secretariat, Hyderabad.
2 The Director General and Inspector General of Police,

Saifabad, Hyderabad.
3 The Commissioner of Police, Hyderabad.

4 Two CCs. to G.P. for Services-I, High Court of Andhra Pradesh,

Hyderabad (OUT).

5 Two CD copies.

6 The Registrar, A.P.Administrative Tribunal, Purani Haweli, Hyderabad.